



## The *Comm*Law Group

HELEIN & MARASHLIAN, LLC  
1483 Chain Bridge Road  
Suite 301  
McLean, Virginia 22101

Telephone: (703) 714-1300  
Facsimile: (703) 714-1330  
E-mail: [mail@CommLawGroup.com](mailto:mail@CommLawGroup.com)  
Website: [www.CommLawGroup.com](http://www.CommLawGroup.com)

Writer's Direct Dial Number  
703-714-1313

Writer's E-mail Address  
[jsm@CommLawGroup.com](mailto:jsm@CommLawGroup.com)

September 30, 2008

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Re: Compass Global, Inc. Certification Pursuant to 47 C.F.R. § 64.5001(c)  
WC Docket No. 05-68

Dear Ms. Dortch:

On behalf of Compass Global, Inc. ("Compass Global"), enclosed herewith please find a redacted, public version and a confidential version of Compass Global's certification ("Officer Certification") pursuant to section 64.5001(c) of the Commission's rules, 47 C.F.R. § 64.5001(c), for the Second Quarter of 2008. The public version of this certification, with confidential information redacted, is being filed via ECFS in Docket No. 05-68.

Please note that, on behalf of Compass Global, our firm is filing the attached Officer Certification under **PROTEST**. For the reasons set forth in this letter, this Officer Certification is being filed solely for the express purposes of avoiding any unnecessary and unwarranted regulatory enforcement proceedings, and does not indicate that Compass Global considers itself a "prepaid calling card provider" or similarly regulated service under either the Commission's regulations or applicable law.

Due to the nature of the company's business model and services, Compass Global maintains that it is not a telecommunications service provider. This issue, among other issues centered on

Compass Global's regulatory status as it pertains to Universal Service Fund ("USF") contribution obligations, is currently being addressed in an ongoing proceeding before the Commission, *In the Matter of Compass Global, Inc. Apparent Liability for Forfeiture*, File No. EB-06-IH-3060 (Released: April 9, 2008). Compass Global responded to the NAL on June 9, 2008 ("*NAL Response*").

In this proceeding Compass Global demonstrated that it is not providing publically available telecommunications services, and thus is not subject to regulation as a prepaid calling card provider. In the *Prepaid Calling Card Order*,<sup>1</sup> the Commission found that calling card providers were providing a "telecommunications service" because they offer "pure transmission capability 'for a fee directly to the public.'"<sup>2</sup> Specifically, the Commission only extended the PIU Certification requirements to prepaid calling card providers providing service directly to End-Users.<sup>3</sup>

Compass' EPS business can be described as one where the Company owns and operates a session processing platform and offers other companies a package of telecommunications, information, non-telecommunications and management services that enables those companies to provide prepaid calling cards to end-user customers.<sup>4</sup> Importantly, Compass does not use its PIN Platform to sell calling card services directly to the public for a fee. Instead Compass sells exclusively to other companies, who in turn sell prepaid calling cards directly to the public or through their own distribution channels. Compass is neither identified as the prepaid calling card provider nor listed as the network services provider on the calling cards sold to the public.

Compass Global maintains that, based upon the technical configuration of its services, Compass Global is not a "provider" of prepaid calling cards, but is merely an enhanced prepaid calling platform wholesaler. As established in its NAL Response, Compass Global merely provides the network elements necessary for other prepaid calling card providers to transmit prepaid calling card calls to End-Users.<sup>5</sup> By virtue of this position, Compass Global does not sell any prepaid calling cards to the public. Therefore Compass Global does not "provide" prepaid calling card services to

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<sup>1</sup> *Regulation of Prepaid Calling Card Services*, Declaratory Ruling and Report and Order, 21 FCC Rcd 7290 (2006).

<sup>2</sup> *Id.* at ¶ 12, citing 47 U.S.C. § 153 (43) (defining "telecommunications.")

<sup>3</sup> *See Id.* at ¶¶ 2 & 10 (Describing how prepaid calling card customers use services provided by prepaid calling card service providers and describing the types of prepaid calling card providers covered by the Commission's decision.)

<sup>4</sup> In many respects Compass' EPS business is similar to Network IP: Compass "is a telecommunications carrier that owns switches and that offers other companies a package of telecommunications [, information, and non-telecommunications & management] services that enables those companies to provide prepaid calling cards to end-user customers." *See Id.* at 2074. Compass' package includes (i) internet access to traffic and billing records, (ii) toll-free and local inbound access to a PIN Accessible Prepaid Platform, (iii) enhanced call routing, and (iv) IP call transport to terminating carriers via a variety of peering arrangements. *See In the Matter of APCC Services, Inc., Data Net Systems, LLC, Davel Communications, Inc., Jaroth, Inc. d/b/a Pacific Telemanagement Services, and Intera Communications Corp. v. Network IP, LLC, and Network Enhanced Telecom, LLP*, Memorandum Opinion and Order, 20 FCC Rcd. 2073 (Feb. 1, 2005) ("*Network IP MO&O*").

<sup>5</sup> *See NAL Response* at Page 46.

End-Users and is hence not subject to those regulations placed on prepaid calling card providers which require the filing of PIU certifications.

In addition, even if the Commission can conclude that Compass Global is providing some form of prepaid calling card services, Compass Global is not providing this service on a common carrier basis. In fact, Compass is very particular in selecting the entities to which it will sell its EWS and EPS. In a discriminate and wholly subjective basis, Compass Global conducts a unique evaluation and makes deliberate findings before choosing which customers it will serve. For instance, the Company will not sell to those carriers that it deems have insufficient quality standards, those that “cut corners” in provisioning, those that use unreliable, inexpensive equipment, and those that do not invest in having redundancy. Moreover, rarely does Compass Global sell its services to its competitors and when it does, it is done at Compass’ discretion and at terms dictated by Compass, as the Company deems appropriate based on the carrier customer at issue.

Therefore the Company cannot be considered a telecommunications service provider under the Federal Telecommunications Act (“FTA”). Under the FTA, the term “telecommunications service” means

the offering of telecommunications for a fee directly to the public, or to such classes of users as to be **effectively available** directly to the public, regardless of the facilities used. *Id.* 47 C.F.R. § 153(46) (emphasis added).<sup>6</sup>

Compass Global provides services exclusively on a wholesale basis. It also provides service on a private contractual basis, and does not provide its services to the general public. Because of this, Compass Global’s services completely fail to satisfy the definition of telecommunications serviced under Section 153(46).

For these reasons, Compass Global maintains that it is not a prepaid calling card provider subject to the Commission’s regulation, specifically those regulations promulgated under the *Prepaid Calling Card Order*. Nevertheless, in order to avoid any unnecessary regulatory investigations or enforcement actions regarding compliance with 47 C.F.R. § 64.5001, Compass Global is filing the attached Officer Certification. However, this Officer Certification is being filed under protest and is in no way intended to be determinative of Compass Global’s regulatory status.

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<sup>6</sup> As one court noted, “The upshot of the various definitions under the [Act] is that the statute applies only to telecommunications services offered on a common carrier basis.” *See Howard v. America Online, Inc.*, 208 F.3d 741, 751-53 (9<sup>th</sup> Cir. 2000); *Iowa v. FCC.*, 218 F.3d 756, 758 (D.C. 2000) (“[A] carrier that provides a service on a non-common carrier basis is not a ‘telecommunications carrier’ and hence is ineligible [under § 254 of the FCA].”); *Southwestern Bell Telephone Co. v. FCC*, 19 F. 3d 1475, 1480 (D.C. Cir. 1994); *In re Federal-State Joint Board on Univ. Servs. Report and Order*, 12 FCCR 8776, 9177, ¶ 785, 1997 WL 236383 (FCC 1997) (FCC has determined that “telecommunications services” means “only telecommunications provided on a common carrier basis.”)

***Request for Confidential Treatment.*** Compass Global, by its undersigned counsel, and pursuant to sections 0.457(d) and 0.459 of the Commission's rules, 47 C.F.R. §§ 0.457, 0.459, hereby requests confidential treatment of the information contained in this report and its attachments. The information for which Compass Global seeks confidential treatment consists of Compass Global's percentage of revenue from the provision of interstate and international services, and an identification of prepaid calling card minutes of use by jurisdiction.

Public disclosure of the information contained in this report could be used by Compass Global's competitors, and therefore could result in competitive harm. Accordingly, the information falls within the scope of sections 0.457 and 0.459 of the Commission's rules and should be afforded confidential treatment.

In addition, section 552(b)(4) of the Freedom of Information Act ("FOIA") protects such information from disclosure because the information includes "trade secrets and commercial or financial information obtained from a person and privileged or confidential."<sup>7</sup>

On the basis of the foregoing, Compass Global requests that its certification pursuant to 47 C.F.R. § 64.5001(c) be accorded confidential treatment.

In the event that Compass Global's request for confidential treatment is denied, Compass Global respectfully requests that advance notice of such decision be communicated to the undersigned.

Should you have any questions regarding this filing, please do not hesitate to contact the undersigned.

Respectfully submitted,

Jonathan S. Marashlian

CC Chief, Pricing Policy Division, Wireline Competition Bureau  
Best Copy and Printing, Inc. (fcc@bpweb.com)

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<sup>7</sup> 5 U.S.C. § 552(b)(4).

**COMPASS GLOBAL, INC.**  
**OFFICER CERTIFICATION PURSUANT TO 47 C.F.R. § 64.5001(c)**  
**WC DOCKET NO. 05-68**

I, Dean Cary, certify, under penalty of perjury, that I am an officer of Compass Global, Inc. ("Compass Global"), and that I am authorized to make this certification on the company's behalf. I further certify that the statements in this certification are true and accurate to the best of my knowledge, information, and belief.

Compass Global has complied with the reporting requirements described in 47 C.F.R. § 64.5001(a), by reporting prepaid calling card percentage of interstate use ("PIU") factors, and call volumes from which these factors were calculated, based on not less than a one-day representative sample, from those carriers from which it purchased transport services during the Second Quarter of 2008.

Compass Global's percentages of total intrastate, interstate, and international calling card minutes for the Second Quarter of 2008 are as follows:

Intrastate	Redacted
Interstate	Redacted
International	Redacted

Compass Global's percentages of total prepaid calling card service revenues (excluding revenue from prepaid calling cards sold by, to, or pursuant to contract with the Department of Defense ("DoD") of a DoD entity) attributable to interstate and international calls for the Second Quarter of 2008 are as follows:

Interstate	Redacted
International	Redacted

Pursuant to Telecommunications Act of 1996 and the Federal Communication Commission's Universal Service rules, Compass Global makes all lawfully required contributions to the Universal Service Fund.



Dean Cary  
President

September 30, 2008